

The Honorable Thomas S. Zilly

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

STRIKE 3 HOLDINGS LLC,

Plaintiff,

v.

JOHN DOE (73.225.38.130),

Defendant.

Case No. 2:17-cv-01731-TSZ

**DECLARATION OF BRYAN J. CASE
REGARDING SERVICE OF MINUTE
ORDER**

I, Bryan J. Case, declare as follows:

1. I am one of the attorneys representing Strike 3 Holdings LLC (“Strike 3”) in the above-captioned matter. I am over the age of 18 and competent to testify about the matters set forth herein. I make this declaration based on personal knowledge.

2. Attached as Exhibit A is a true and correct copy of email correspondence between Timothy Derr of Comcast and myself. On Friday, January 26, I emailed Mr. Derr a copy of the Court’s Minute Order (Dkt. # 8) along with a cover email. Mr. Derr replied shortly thereafter confirming receipt of the Order.

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DECLARATION OF SERVICE RE MINUTE ORDER
(2:17-CV-01731-TSZ) - 1

Fox Rothschild LLP
1001 FOURTH AVENUE, SUITE 4500
SEATTLE, WA 98154
206.624.3600

1 I declare under penalty of perjury under the laws of the State of Washington and the laws
2 of the United States of America that the foregoing is true and correct.

3 DATED this 29th day of January, 2018 at Seattle, Washington.
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6 /s/ Bryan J. Case
Bryan J. Case, WSBA # 41781
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DECLARATION OF SERVICE RE MINUTE ORDER
(2:17-CV-01731-TSZ) - 2

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EXHIBIT A

Case, Bryan

From: Derr, Timothy <Timothy_Derr@comcast.com>
Sent: Friday, January 26, 2018 12:47 PM
To: Case, Bryan
Cc: Bandlow, Lincoln; Emilie Kennedy; Sullivan, Melinda; [Neto - IPCopyRightSuits]
Subject: [EXT] RE: Strike 3 v. John Doe - Change in Protocol Responding to Previously Served Subpoenas

Hi Bryan,

Thank you for providing a copy of the Minute Order. We have noted our records of the new compliance method and will ensure subscriber information is directed to the Clerk of the Court and not your office.

Enjoy the weekend,

Timothy Derr

Supervisor, Legal Response Center
650 Centerton Road, Moorestown, NJ 08057
Direct: 856-675-5138 | **Mobile:** 267-453-8168 | **Fax:** 866-947-5587

From: Case, Bryan [mailto:bcase@foxrothschild.com]
Sent: Friday, January 26, 2018 3:11 PM
To: Derr, Timothy <Timothy_Derr@cable.comcast.com>
Cc: Bandlow, Lincoln <lbandlow@foxrothschild.com>; Emilie Kennedy <emilie.kennedy@genmediasys.com>; Sullivan, Melinda <melindasullivan@foxrothschild.com>
Subject: Strike 3 v. John Doe - Change in Protocol Responding to Previously Served Subpoenas

Hello Mr. Derr,

We represent Strike 3 Holdings in following lawsuits pending in the United States District Court for the Western District of Washington:

- Strike 3 Holdings v. John Doe (IP Address [71.231.142.237](#)), Case No. 2:17-cv-01730-RAJ
- Strike 3 Holdings v. John Doe (IP Address [73.225.38.130](#)), Case No. 2:17-cv-01731-MJP
- Strike 3 Holdings v. John Doe (IP Address [76.22.118.13](#)), Case No. 2:17-cv-01732-RAJ

We had previously served subpoenas on Comcast in above lawsuits by certified mail. Comcast has not yet responded. Yesterday, the above matters were transferred to a new judge in the Western District of Washington, Judge Thomas Zilly. The new case numbers for the three matters are as follows:

- Strike 3 Holdings v. John Doe (IP Address [71.231.142.237](#)), Case No. 2:17-cv-01730-TSZ
- Strike 3 Holdings v. John Doe (IP Address [73.225.38.130](#)), Case No. 2:17-cv-01731-TSZ
- Strike 3 Holdings v. John Doe (IP Address [76.22.118.13](#)), Case No. 2:17-cv-01732-TSZ

Judge Zilly issued the attached order yesterday in each of the three cases. This order modifies the prior order the prior judges entered relating to the previously served subpoenas (that prior order was served with the subpoenas). Please review this the attached order carefully as it contains a certain protocol Comcast must follow to the respond to the subpoena, which is different from the protocol in the prior orders. Please ensure Comcast's compliance with this order.

If you have any questions, please call me. We will be serving the attached order on Comcast today via certified mail.

Regards,
Bryan

Bryan Case

Partner

Fox Rothschild LLP

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

STRIKE 3 HOLDINGS, LLC,

Plaintiff,

v.

JOHN DOE (71.231.142.237);
JOHN DOE (73.225.38.130);
JOHN DOE (76.22.118.13);
JOHN DOE (50.54.142.188);

Defendants.

C17-1730 TSZ
C17-1731 TSZ
C17-1732 TSZ
C17-1733 TSZ

MINUTE ORDER

The following Minute Order is made by direction of the Court, the Honorable Thomas S. Zilly, United States District Judge:

(1) The Orders, docket no. 7 in C17-1730, docket no. 5 in C17-1731, docket no. 7 in C17-1732, and docket no. 5 in C17-1733, granting plaintiff leave to serve a subpoena on the Internet service provider ("ISP") for each defendant John Doe, are hereby AMENDED as follows.

(a) To the extent that an ISP has not already provided to plaintiff or its attorney material responsive to a subpoena issued pursuant to the Orders identified above, the ISP shall **not** disclose any such responsive material to plaintiff or its counsel, but instead shall send the responsive material, in an envelope prominently marked "CONFIDENTIAL SUBSCRIBER INFORMATION -- TO BE FILED UNDER SEAL," addressed to the Clerk of the Court, United States District Court for the Western District of Washington, 700 Stewart Street, Seattle, WA 98101.

(b) If an ISP has provided responsive material to the Court rather than plaintiff or its attorney, plaintiff may serve summons and complaint using the

1 following procedure. Plaintiff's counsel may submit a blank summons to the
2 Clerk, who will interlineate the affected subscriber's identity and service address
3 on the summons and place the completed summons in a sealed envelope for return
4 to plaintiff's counsel. Plaintiff's counsel shall not open or otherwise attempt to
5 view the contents of such envelope before delivering it, along with a copy of this
6 Order, to the process server of plaintiff's choosing. The process server shall keep
7 the affected subscriber's identity and service address confidential and shall not
8 disclose such information to plaintiff or its attorneys. The process server shall
9 send any affidavit or declaration of either service or non-service in an envelope
10 prominently marked "CONFIDENTIAL SUBSCRIBER INFORMATION -- TO
11 BE FILED UNDER SEAL," addressed to the Clerk of the Court, United States
12 District Court for the Western District of Washington, 700 Stewart Street, Seattle,
13 WA 98101.

14 (c) Plaintiff shall not amend its pleadings to substitute a subscriber as a
15 defendant or publicly disclose any defendant's real identity unless specifically
16 authorized to do so by the Court. Plaintiff and its attorneys shall not communicate
17 directly with any defendant John Doe for any purpose until further order of the
18 Court.

19 (d) If an ISP to which a subpoena was issued pursuant to the Orders
20 identified above has not yet provided responsive materials, plaintiff shall serve a
21 copy of this Minute Order on each such ISP and shall file proof of such service
22 within three (3) days of the date of this Minute Order.

23 (2) The deadlines for a Rule 26(f) conference, exchange of initial disclosures,
and submission of a Joint Status Report that were set in C17-1731 and C17-1733 are
STRICKEN, and will be reset, if appropriate, at a later date.

(3) The Clerk is DIRECTED to send a copy of this Minute Order to all counsel
of record. Plaintiff's counsel is DIRECTED to provide a copy of this Minute Order
(i) along with any blank summons submitted to the Clerk, and (ii) along with any
summons provided under seal to the selected process server.

Dated this 25th day of January, 2018.

William M. McCool
Clerk

s/Karen Dews
Deputy Clerk